

Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Date: SEP 9 1986

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120 since you are a corporation.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-85), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper

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power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,



District Director

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Enclosure I

The information submitted in your application for exemption discloses that you were incorporated [REDACTED] as an [REDACTED] not for profit corporation. Your purposes as set forth in your articles of incorporation are:

The Corporation is organized to exercise, promote and protect the privileges and interests of the owners of certain real property described in Exhibit 'A' hereof, in the manner set forth in the Declaration of Protective Covenants For [REDACTED] and the Supplemental Declaration of Protective Covenants for [REDACTED], recorded in Volume [REDACTED], [REDACTED], respectively, of the [REDACTED] County Records, as the same may from time to time be amended (the 'Declarations'), and to do all things permitted by law not inconsistent with the Declarations.

Your proposed amendment to Article Third of your Articles of Incorporation reads as follows:

The Corporation is organized to ensure that the real property described in Exhibit A and B, attached hereto and incorporated herein by reference (the 'Real Property'), is developed and maintained so as to promote business and commerce by offering an attractive and pleasant environment for people in business including open space, landscaping, and circulation systems, and by enforcing proper maintenance.

Your application states that the activities to be carried on by the organization through its Board of Trustees are:

- 1) maintain the common areas of the Office Park in accordance with standards promulgated by it,
- 2) to promulgate and enforce maintenance standards for each parcel of land in the Office Park,
- 3) to appoint members to an Architectural Review Board ('ARB'), and
- 4) to amend or modify the Standards and Guidelines of the ARB, as set forth in the Declarations.

The ARB has the authority to review for approval all proposals for constructing on, and other improvements to, any property in

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the Office Park, through the procedure set out in Section V of the Supplemental Declaration.

The Corporation may make assessments to the extent necessary to maintain common areas, enforce the Declarations, and finance its activities. Assessments for the maintenance of a specific parcel of land in the Office Park will be assessed against the owner of that parcel; common area assessments will be made against all owners of property in the Office Park, in proportion to the acreage each member owns in relation to the total acreage of the Office Park.

All of the Corporation's actions will be taken to ensure that the Office Park is attractive to people, that its value is protected, and that it provides a pleasant environment for people in business.

The property referred to above is described in [REDACTED] Ordinance No. [REDACTED] 3. [REDACTED]:

"Headquarters or Executive Offices Park" ("Park") means an area of not less than 45 contiguous acres to be developed according to a plan as a single entity and containing an arrangement of buildings intended for headquarters or executive offices for businesses or administrative entities in accordance with the requirements of this Chapter.

You have also stated that the corporation will not own, but will supervise and ensure the maintenance of, roadways, sidewalks, and street lights within the Center. The Center will not contain playgrounds, swimming pools or tennis courts. Although the Center will not contain any parklands, it will contain generous, landscaped open areas, the maintenance of which will be supervised by the Corporation. The owner of property in the Center will be engaged in commerce. The Corporation will supervise maintenance of the exterior of buildings located in the Center, but in all likelihood none of those buildings will contain private residences.

Membership in the organization is defined in the Code of Regulations, Section 31:

Membership. Every Owner of a Parcel (as hereinafter defined) shall be a member ("Member") of the Corporation. Membership shall be

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appurtenance, to and may not be separated from ownership of any
Parcel. ██████████ ██████████, and ██████████ limited
Partnership, and ██████████ ██████████ a ██████████ corporation
qualified to do business in the State of ██████████, shall be 'Original
Members'.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

In order to comply with the requirements of the Code and regulations, an organization must meet the following basic tests:

(a) it must be an association of persons having some common business interest, and its purpose must be to promote this common business interest;

(b) it must not be organized for profit;

(c) no part of its net earnings may inure to the benefit of any private shareholder or individual;

(d) its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons; and

(e) its purpose must not be to engage in a regular business of a kind ordinarily carried on for profit, even if the business is operated on a cooperative basis or produces only sufficient income

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to be self-sustaining.

A section 501(c)(6) organization must be primarily engaged in activities or functions constituting the basis for its exemption.

A section 501(c)(6) organization's primary activity cannot be performing particular services for members.

Chambers of commerce and boards of trade are organizations of the same general type as business leagues, and the requirements for exemption of business leagues are equally applicable to these organizations. (I.T. Regs 1.501(c)(6)-1.) However, chambers of commerce and boards of trade usually direct their efforts at promoting the common economic interests of all the commercial enterprises in a given trade community. Rev. Rul. 73-411, 1973-2 C.B. 180.

In Rev. Rul. 73-411, a shopping center merchants' association whose membership is restricted to, and required of, the tenants of a one-owner shopping center and their common lessor, and whose activities include promotional affairs and advertising to publicize the center, does not qualify as a business league or chamber of commerce under section 501(c)(6) because these activities are directed to promoting the general business interest of its members only, rather than of the industry as a whole.

Rev. Rul. 73-411 explains that to be considered exempt as a chamber of commerce or similar organization, the common business interest is usually the general economic welfare of a community. Membership is voluntary and open generally to all business and professional men in the community.

Your organization will be composed of various types of business concerns whose membership in your organization is compulsory and restricted to a specific "Park". This does not fit the definition of a chamber of commerce type organization since this "Park" is not a geographical or political community in the usual sense.

The same conclusion applies to those phases of your activities that relate to such matters as the maintenance of the common areas and enforcement of the restrictive covenants. These activities are characteristic of a tenants' association, rather than of a chamber of commerce or trade association and fall short of supporting any section

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[REDACTED]

501(c)(6) exemption for the organization. They primarily serve special interests of your members related to their status as property owners in the Park rather than to the status of your members as representatives of the commercial interests of a community.

Therefore, we have concluded that you do not meet the requirements to be exempt under section 501(c)(6) of the Code because you are not a business league or chamber of commerce. As in the case in Rev. Rul. 73-411 cited above, your principal activity will be the performance of particular services to members. They are not activities directed at the improvement of business conditions of one or more lines of business or business conditions of any community as a whole, within the meaning of section 501(c)(6) of the Code.